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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,002	11/30/2001	Warren S. Slutter	HJY0105R	7237

22045 7590 05/20/2010
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EXAMINER

LAUCHMAN, LAYLA G

ART UNIT	PAPER NUMBER
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2877

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Reissue Applications

Response to Arguments

Applicant's arguments filed on 12/09/2009 with respect to the surrender and recapture doctrine have been fully considered and are persuasive. The rejection based on recapture has been withdrawn.

Reissue Oath/Declaration

In accordance with 37 CFR 1.175(b) (1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1, 7, 8, 10-12, 66, 84-130 are rejected as being based upon a defective reissue oath under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

See MPEP § 1414.01.

Allowable Subject Matter

Claims 1, 7, 8, 10-12, 66, 84-130 are allowed.

The following is an examiner's statement of reasons for allowance:

As to Claim 1, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive a non-zero order of diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident

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polychromatic light, without significant mixing with adjacent orders of diffracted light, in combination with the rest of the limitations of the claim.

As to Claim 66, the prior art of record taken alone or in combination, fails to disclose or render obvious imaging said dispersed light with said lens at an exit port located on a second side of said meridian plane for receiving a non-zero order of diffracted light without significant mixing with adjacent orders of diffracted light, in combination with the rest of the limitations of the claim.

As to Claim 106, the prior art of record taken along or in combination, fails to disclose or render obvious reflectively diffracting the second light beam at the grating to form a second diffracted beam; and imaging the second diffracted beam with the lens at the secondary exit port, in combination with the rest of the limitations of the claim.

As to Claim 111, the prior art of record taken along or in combination, fails to disclose or render obvious a primary exit port being located substantially out of said meridian plane toward said second side for receiving an order of light that maximizes throughput and minimizes astigmatism, in combination with the rest of the limitations of the claim.

As to Claim 112, the prior art of record taken along or in combination, fails to disclose or render obvious a primary exit port located substantially out of said meridian plane toward said second side for receiving an order of light that maximizes throughput and minimizes astigmatism, in combination with the rest of the limitations of the claim.

As to Claim 117, the prior art of record taken along or in combination, fails to disclose or render obvious a primary exit port located substantially out of said meridian plane toward said second side for receiving an order of light that maximizes throughput and minimizes

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astigmatism, and a secondary exit port near said primary focal plane located at a second perpendicular distance from said meridian plane in said direction, in combination with the rest of the limitations of the claim.

As to Claim 125, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident polychromatic light, said entrance and exit ports being positioned relative to said lens convex surface and said grating concave surface to reflect light which is reflected by said lens convex surface towards said grating concave surface for reflection generally towards said lens convex surface to follow a path which avoids said exit port, in combination with the rest of the limitations of the claim.

As to Claim 128, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive a non-zero order of diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident polychromatic light, and, overall, to tend to maximize throughput and tend to minimize astigmatism, in combination with the rest of the limitations of the claim.

As to Claim 129, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive first order of diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident polychromatic light, in combination with the rest of the limitations of the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418. The examiner's normal work schedule is 8:00am to 4:30pm (EST), Monday through Friday. If attempts to reach examiner by the telephone are unsuccessful, the examiner's supervisor Gregory J. Toatley, Jr. can be reached on (571) 272-2059, ext. 77.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.

/L. G. Lauchman/
Primary Examiner, Art Unit 2877

5/20/2010